



Kansas Department of Credit Unions

KDCU Newsletter

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Legislative and Regulatory Update

Kansas Legislature

Senate Bill 72

Governor Kathleen Sebelius signed SB 72 into law on May 9. SB 72 amends provisions pertaining to the field of membership in Kansas chartered credit unions to specify that a person who is a member of a credit union would remain a member of the credit union until the person chooses to withdraw or is expelled from the membership. The bill also lists those who may be a member of a credit union to include:

- Spouses of persons who died while such person was within the field of membership;
- Employees of the credit union;
- Persons who retired from any qualified employment group within the field of membership;
- Persons from a volunteer group recognized by the management of the association(s) or employee group(s) within the field of membership;
- Members of the credit union member's immediate family or household;
- Organizations whose membership consists of persons within the field of membership; and
- Corporate or other legal entities within the field of membership identified in the charter, articles of incorporation, or the bylaws of the credit union.

SB 72 is effective July 1, 2009.

Senate Bill 230

SB 230 would combine the Department of Credit Unions, the Office of the State Bank Commissioner and the Office of the Securities Commissioner into a new Department of Financial Institutions. No hearing was held during the 2009 legislative session and the bill remains assigned to the Senate Financial Institutions and Insurance Committee.

KDCU Regulations

On May 1 the following regulations were adopted by the Administrator:

K.A.R. 121-11-1 defining the terms "continuing credit union" and "merging credit union."

K.A.R. 121-11-2 detailing the process to merge into a single credit union for any two credit unions.

K.A.R. 121-12-1 clarifying the definition of the term "branch" to not include any automated teller machine, remote service unit or similar device.

K.A.R. 121-9-1 describing the requirements and process to obtain approval by the Administrator, KDCU for foreign credit unions (out of state chartered credit unions) to do business in Kansas.

Federal Legislation

President Barack Obama signed S. 896 into law on May 20. The NCUA Board is now working to establish regulations implementing the legislation that allows credit unions to spread their costs associated with NCUA's corporate credit union stabilization program.

The key provisions for credit unions in S. 896 include:

- Extending the increase in share insurance coverage (\$250,000) for the NCUSIF until December 31, 2013.
- Increasing NCUA's borrowing authority from the U.S. Treasury from \$100 million to \$6 billion, with the ability to borrow as much as \$30 billion in exigent circumstances through December 2010.
- Allowing credit unions to book impairments related to the NCUSIF replenishment within a seven year period.
- Providing credit unions eight years to deal with the cost of the NCUSIF premium assessment.

Bulletins Issued

Bulletins issued since the last newsletter:

2009-KDCU-CUB-04 NCUA's Corporate Stabilization Program Expense

2009-KDCU-CUB-05 Actions taken by the National Credit Union Administration to Support the Corporate Credit Union System—[Conservatorship of U.S. Central Federal Credit Union and Western Corporate Federal Credit Union](#)

Credit union management should be familiar with KDCU's Bulletins which are e-mailed to credit unions and posted on KDCU's web site.

Court Rules for Credit Union in UBIT Litigation

On May 15, 2009, in the suit brought by Community First Credit Union (CFCU), an eight-person jury in the U.S. District Court of Wisconsin determined that three insurance products are related to the purpose of a credit union and should not be subject to unrelated business income tax (UBIT).

In the suit, CFCU requested that the IRS refund taxes paid on income from the sale of credit life and credit disability insurance and guaranteed auto protection (GAP). The jury ruled for the credit union and concluded that these insurance products are related to the mis-

sion and purpose of the credit union and therefore are not taxable.

Bellco Credit Union, Greenwood Village, Colorado has also sued the IRS requesting a nearly \$200,000 refund from UBIT taxes paid on securities products. An original trial date of August 11, 2009 for this case was vacated and a new trial date has yet to be determined.

CU SIP Investments Exempted from Bond Requirements

The Administrator has determined that minimum fidelity bond coverage for Kansas credit unions is the same as required by NCUA (Part 713 of the NCUA Regulations). The NCUA Board approved

an order at its May board meeting to exclude Credit Union System Investment Program (CU SIP) assets from minimum fidelity bond requirements. Kansas credit unions can exclude their CU SIP assets from the calculation for determining asset size for bond coverage.

Administrator's Remarks

We continue to receive a small number of complaints from credit union members. Complaints usually are received by telephone, e-mail or by referral from other agencies such as the attorney general or NCUA. If possible, we request complaints be submitted in writing through submission of the complaint form on our web site or by sending the member the complaint form. After receipt of

the complaint form, the credit union is contacted to verify information received from the member and to resolve the complaint.

Credit unions can minimize complaints by clear policies, personnel training and conducting business with members using the utmost diplomacy. Credit unions can assist KDCU in resolving complaints by thoroughly reviewing the complaint. Decision making with complaints can be framed by the "six o'clock news test." If you would not want to see the story on the six o'clock news, then you should proceed differently.

CREDIT UNION COUNCIL MEETS

The Credit Union Advisory Council met on June 2, 2009. Council members attending were Garth Strand, Chair, Carol Malecki, Lee Williams, Gilbert Benton, Sue Henke and Jim Holt. Guests were Lovelle Frazier, Jerel Wright, Haley DaVee and Larry Eisenhauer.

The Council elected Garth Strand as Chair, Lee Williams as Vice-Chair and Gilbert Benton as Secretary.

The Council recognized Freda Chabira who has acted as the Council's recording secretary and is retiring from the Department after 48 years of Kansas state service.

The Council received several reports:

- ♦ Credit union status reports.
- ♦ KDCU financial reports.
- ♦ Kansas credit union condition report.
- ♦ Frequency of examinations report.
- ♦ Credit union examination annual fee assessment by the Administrator.

The Council discussed the recent NCUA actions taken to stabilize the corporate credit union system, the effect of the NCUSIF write-down and recapitalization on Kansas credit unions and federal legislation allowing credit unions to spread over several years these costs.

The Kansas Credit Union Association reported on recently enacted state and pending and enacted federal legislation.

Kansas Corporate Credit Union reported on recent events in the corporate credit union system.

The next meeting of the Credit Union Advisory Council is scheduled for September 10, 2009.

Credit union members and officials are invited and encouraged to attend Council meetings.

Kansas Department of Credit Unions Staff

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